

In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. 86 Ill. Adm. Code 270.115. (This is a GIL.)

August 7, 2007

Dear Xxxxx:

This letter is in response to your letter dated January 15, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to you on behalf of my client, to request guidance regarding the sales tax rate CLIENT should be charging its customers.

CLIENT is a retail lumber business located in CITY/IL. They deliver 90% of all lumber sales directly to their customers' job sites. Sales orders are taken over the phone and stipulate delivery. Payment on construction jobs is generally received from the title company at the title company's office. Currently, CLIENT charges its customers a 9% sales tax rate based on the combined state and home rule, city sales tax rate of CITY, IL where their lumber yard is located.

Recently, customers and competitors have caused them to question their practice of charging the 9% home rule, sales tax rate. Customers have told CLIENT that other suppliers charge the sales tax rate applicable to the delivered location. Furthermore, PERSON of the Illinois Department of Revenue concurred that sales tax should be charged based on the delivered location.

Before CLIENT adopts a new sales tax procedure, they would like specific guidance, in writing, from the Illinois Department of Revenue stating which sales tax rate they should charge customers under the circumstances we have described here.

If you need additional facts to issue such guidance, please call me.

DEPARTMENT'S RESPONSE

For your general information, please see the Department's regulation at 86 Ill. Adm. Code 270.115 for guidance concerning jurisdictional questions. In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although 86 Ill. Adm. Code 270.115 deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. If purchase order acceptance occurs outside of Illinois and the "lessor" under a conditional sale maintains no inventory in the State, then the tax rate is 6.25%.

For example, if the order is accepted in CITY the sales tax rate will include the 6.25% State rate, plus 2.75% local tax rate for CITY, for a total of 9%. If the same order is accepted in Springfield, the sales tax rate would be 6.25% State rate plus 1.5% local tax rate for Springfield, for a total of 7.75%.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk